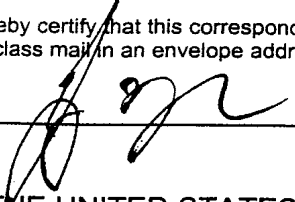


Docket No.: GR 98 P 1307

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Assistant Commissioner for Patents, Washington, D.C. 20231.

By:  Date: November 16, 2000

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant : Wolfgang Werner  
Appl. No. : 09/623,924  
Filed : September 11, 2000  
Title : Measuring Device with a Microsensor and Method for its Production  
Art Unit :

**LETTER**

Hon. Commissioner of Patents and Trademarks,  
Washington, D.C. 20231

Sir:

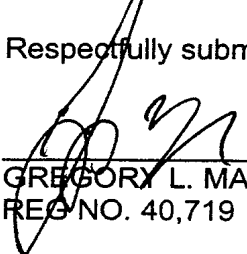
The above-mentioned new patent application was filed on August 21, 2000 without a signed oath or declaration, under the provision of 37 C.F.R. 1.53(f) and without a certified English translation.

In accordance with the above-mentioned rule, enclosed herewith is the original signed declaration as required by the Notification Of Missing Requirements Under U.S.C. 371 dated October 25, 2000 and English translation according to a Notification Of A Defective Oath Or Declaration dated October 25, 2000.

The undersigned hereby states that the application filed in the Patent and Trademark Office is the application which the inventor(s) executed by signing the declaration. MPEP 601.01(a)(6)

The fee required for the late filing of an oath or declaration in the amount of \$130.00 is also enclosed along with the fee in the amount of \$130.00 for the late filing of a certified English translation.

Respectfully submitted,

  
\_\_\_\_\_  
GREGORY L. MAYBACK  
REG NO. 40,719

/mjb

Date: November 16, 2000  
Lerner and Greenberg, P.A.  
Post Office Box 2480  
Hollywood, FL 33022-2480  
Tel: (954) 925-1100  
Fax: (954) 925-1101

DOCKET NO. .GR. 98 .P. 1307... Mailed .... Nov., 16., 2000.

A. IC. NO. .09/623,924..... Express Mail .....

The stamp of the Patent Office hereon may be considered the date on which papers indicated below were received.

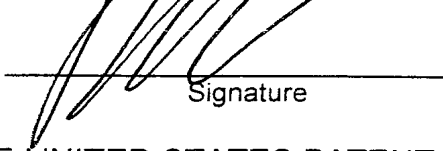
Applic pgs . . . . Rule 53b New ☐ Contin ☐ Div ☐ CIP ☐ /Rule 53c Prov. ☐ /Rule 53d CPA ☐  
☐ CIP . . . pgs ☐ TM ☐ Design ☐ . . . Dwgs ☐ inf. ☐ fml. ☒ Mailing Certif.  
☐ Priority Claim ☐ Cert. Prior. Doc(s) ☐ PCT Cover Sheet WO . . . . .  
☐ Amend pgs . . . ☐ Prel. Amend pgs . . . ☒ Letter  
☐ Response pgs . . . ☐ 37CFR1.116 ☐ Not. of Appeal  
☐ Brief pgs . . . ☐ Appndx pgs . . . ☐ I.D.S. + . . . Refs.  
☒ Assoc Pwr of Atty ☐ . . . Specimen ☒ Declaration  
☐ Pet. for Ext . . . . Mo. ☐ Pet . . . . ☒ Check \$ 260  
☐ Issue Fee ☐ Assignment ☒ PTOL . . . .  
☐ St. of Use ☐ Cert. of Corr. ☐ File rec. corr  
*CERTIFIED ENGLISH TRANSLATION*



(Patent Office. Please stamp and return to addressee on reverse side.)

CERTIFICATION OF MAILING OR TRANSMISSION

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to the Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 or facsimile transmitted to the U.S. Patent and Trademark Office on the date shown below.

  
\_\_\_\_\_  
Signature

*Feb 7, 2008*  
\_\_\_\_\_  
Date

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applic. No.	:	09/623,924	Confirmation No: 1970
Applicant	:	Wolfgang Werner	
Filed	:	September 11, 2000	
Art Unit	:	2855	
Examiner	:	Andre J. Allen	
Title	:	Measuring Apparatus with Microsensor and Method for Producing it	
Docket No.	:	GR 98 P 1307 P	
Customer No.	:	24131	

REQUEST FOR FILING RECEIPT CORRECTION

Commissioner for Patents,  
Alexandria, VA 22313-14150

Sir:

Undersigned counsel has received the Filing Receipt for the above-identified application.

The filing date was listed incorrectly and should be as follows:

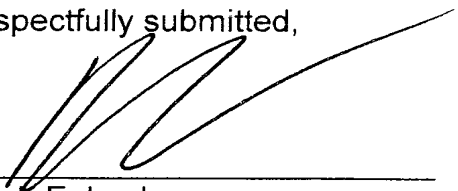
November 20, 2000

It is respectfully requested that the Patent Office Records be changed and that a new Filing Receipt be issued, so that the printed patent will show the filing date.

On November 16, 2000 Applicant submitted a cover letter, a certified English translation of the German specification, an Associate Power of Attorney and a copy

of the Notification of a Defective Oath or Declaration that were filed in the Patent Office on November 20, 2000. Applicant received a Notice of Abandonment dated June 11, 2001 for allegedly not responding to the Notice of Missing Requirements. On June 29, 2001 Applicant filed a petition stating that it did indeed comply with the Notice of Missing Requirements. The petition was granted on November 1, 2001. Therefore Applicant believes its date of November 20, 2000 is proper.

Respectfully submitted,



---

Ralph E. Locher  
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NOV 01 2001

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents  
United States Patent and Trademark Office  
Washington, D.C. 20231  
www.uspto.gov

LERNER & GREENBERG  
PO Box 2480  
Hollywood, Florida 33020-2480

In re Application of  
WERNER, Wolfgang  
U.S. Application No.: 09/623,924  
PCT No.: PCT/DE99/00268  
International Filing Date: 01 February 1999  
Priority Date: 10 March 1998  
Attorney's Docket No.: GR 98 P 1307  
For: MEASURING DEVICE WITH A  
MICROSENSOR AND METHOD FOR ITS  
PRODUCTION

RECEIVED NOV 05 2001

DECISION ON PETITION  
UNDER 37 CFR 1.181

This decision is issued in response to applicants' "Petition Under 37 CFR 1.8(b)" filed on 02 July 2001, which has been treated as a petition under 37 CFR 1.181 to confirm the filing of a timely response to the Notification Of Missing Requirements mailed 25 October 2000. No petition fee is required.

### **BACKGROUND**

On 01 February 1999, applicant filed international application PCT/DE99/00268 which claimed a priority date of 10 March 1998 and which designated the United States. On 16 September 1999, a copy of the international application was communicated to the United States Patent And Trademark Office ("USPTO") by the International Bureau ("IB").

On 28 September 1999, a Demand was filed with the International Preliminary Examining Authority electing the United States. The election was made prior to the expiration of nineteen months from the priority date. As a result, the deadline for payment of the basic national fee was extended to expire thirty months from the priority date, i.e., 11 September 2000 (10 September 2000 was a Sunday).

On 11 September 2000, applicants filed a transmittal letter for entry into the national stage in the United States accompanied by, among other materials, payment of the basic national fee.

On 25 October 2000, the United States Designated/Elected Office (DO/EO/US) mailed a Notification of Missing Requirements Under 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating that the following were required: (1) an oath or declaration in compliance with 37 CFR 1.497; (2) the surcharge for providing the oath or declaration later than 30 months from the priority date; (3) a translation of the application into English; and (4) the processing fee for providing the

English translation later than 30 months from the priority date. The Notification also informed applicant that the failure to submit these materials within one month of the mail date of the Notification would result in abandonment of the application.

On 11 June 2001, the DO/EO/US mailed a Notification Of Abandonment (Form PCT/DO/EO/909) indicating that the application was abandoned with respect to the United States for failure to respond to the Notification Of Missing Requirements.

On 02 July 2001, applicants filed the petition considered herein. The petition asserts that, on 16 November 2000, applicants mailed a timely response to the Notification of Missing Requirements that included the required English translation, executed declaration and fee payments. Among the materials attached to the present petition is a copy of the previously filed declaration and English translation, and a copy of a return postcard that specifically identifies the present application, itemizes the declaration, translation, and fee payments, and bears a USPTO receipt stamp dated 20 November 2000.

### **DISCUSSION**

Based on applicant's statements, the stamped return postcard, and internal USPTO records which confirm receipt of the \$130 surcharge and \$130 processing fee payments on 20 November 2000, it is concluded that the response to the Notification Of Missing Requirements attached to the present petition, including the executed declaration, English translation, and fee payments, were originally filed on 20 November 2000 as a timely response to the Notification Of Missing Requirements mailed 25 October 2000. Accordingly, the Notification Of Abandonment mailed on 11 June 2001, based as it was on applicants' purported failure to file a timely response to the Notification Of Missing Requirements, is appropriately vacated.

A review of the declaration filed on 20 November 2000 reveals that it is in compliance with 37 CFR 1.497.

A review of the English translation, however, finds that the translation is incomplete in that it fails to include a translation of claim 23 from the published international application. This claim was apparently canceled by amendment during the international examination process. However, regardless of subsequent amendments, applicant is required to provide a translation into English of the entire international application as filed, including the original version of amended or canceled claims.

### **CONCLUSION**

Applicant's petition under 37 CFR 1.181 is **GRANTED**.

The Notification Of Abandonment (Form PCT/DO/EO/909) mailed on 11 June 2001 is hereby **VACATED**.

The materials attached to the present petition, including the executed declaration and the surcharge payment, are treated as having been originally filed on 20 November 2000

This application is being forwarded to the National Stage Processing Branch of the Office of PCT Operations for further processing in accordance with this decision, including the mailing of a Notification Of A Defective Translation.



Leonard Smith  
PCT Legal Examiner  
PCT Legal Office

RMR/LS:rmr



Richard M. Ross  
PCT Petitions Attorney  
PCT Legal Office  
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Facsimile: (703) 308-6459